IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 2ND NOVEMBER 2006 / 11TH KARTHIKA 1928

WP(C).No. 27527 of 2004(B)

PETITIONER:

N.P. SALEER, S/O. MOIDEEN HAJI,
NADUVIL PEEDIYEKKAL HOUSE,
P.O. PANG, MALAPPURAM.

BY ADV. SRI.G.PRABHAKARAN

RESPONDENTS:

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1. THE ADDL.DISTRICT EXECUTIVE OFFICER
KERALA MOTOR TRANSPORT WORKERS WELFARE
FUND BOARD, MALAPPURAM.

2. THE DISTRICT COLLECTOR, MALAPPURAM.

3. THE TAHSILDAR (REVENUE RECOVERY),
PERINTHALMANNA.

R1 BY ADV. SRI.P.RAMAKRISHNAN, SC,KMTWF BOARD
R2 AND R3 BY G.P. SRI. S. DILEEP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/11/2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE PARTNERSHIP DEED DATED 22.3.2001

EXT.P2 TRUE COPY OF THE PROVISIONAL DETERMINATION ORDER DATED 23.9.2003

EXT.P3 TRUE COPY OF THE REPLY TO EXT.P2 DATED 6.10.2003

EXT.P4 TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 7.9.2004

EXT.P5 TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 8.9.2004

EXT.P6 TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 1.9.2004

EXT.P7 TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 1.9.2004

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

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C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 27527 OF 2004

Dated this the 2nd day of November, 2006

JUDGMENT

Heard counsel for the petitioner and standing counsel for the Motor Transport Workers Welfare Fund Board. Like many other cases, the contention is only that petitioner was running bus business in partnership. However, standing counsel submitted that even after service of inquiry notice, petitioner did not produce any partnership deed. Even in this Court, what is produced is a typed copy partnership deed on Rs. 100/- stamp paper. On the face of it, I do not think any genuine partnership exists. Moreover, two employees out of three employees for whom demand is raised are Mr. Chandran, and Navasali and they are not partners. Therefore petitioner is certainly liable to pay contribution for them. The other person, Sri. N.P. Hakeem, whom petitioner says, is a partner. Even though petitioner's brother may have been working as a cleaner, contribution cannot be demaded if he was a partner. However, since other persons are not working partners, and were employed on payment basis, then contribution can be demanded

in respect of those persons because they worked as employees and not as working partners. Petitioner has not adduced any materials to grant relief even in respect of one employee. In the circumstances, I do not find any merit in the contentions raised against the demand of contribution for three employees without whom stage carriage cannot be operated. W.P. therefore fails and is dismissed. However, petitioner is granted two instalments to clear the balance arrears first of which will be paid on or before 28.2.2007 and the balance on or before the last day of March, 2007. If petitioner commits default in payment of any of the instalments, then respondents will be free to proceed for recovery of the entire amount due. Counsel for the petitioner has pointed out some duplication in demand for the period 2001-02. This is a matter for verification by the Executive Officer which he should do and make correction if required on production of a copy of this judgment by the petitioner along with details.

(C.N.RAMACHANDRAN NAIR)
Judge